



**Office of the New York State  
Attorney General**

**Letitia James  
Attorney General**

August 6, 2025

**By ECF**

Honorable Robert W. Lehrburger  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *Garrett v. City Univ. of New York*, No. 24-cv-9710 (VSB)(RWL)

Dear Judge Lehrburger:

This Office represents defendant City University of New York (“CUNY”) in the above-referenced matter. I write to request that the Court disregard Plaintiff’s letter filed on July 31, 2025 (ECF No. 34) on the grounds that it is essentially an unauthorized sur-reply in opposition to CUNY’s pending, fully-briefed motion to dismiss.

As the Court is aware, CUNY moved to dismiss the Complaint in this case on March 10, 2025, and CUNY’s motion has been fully briefed since May 29, 2025. *See* Motion to Dismiss (ECF Nos. 11-12, 31). On July 22, 2025, CUNY provided the Court with relevant recent decisions which were issued after the briefing of their Motion to Dismiss completed. *See* Letter dated July 22, 2025 (ECF No. 33). CUNY’s short letter deliberately did not include any arguments, and merely directed the Court to the newly decided decisions.

In response, Plaintiff filed a letter inexplicably claiming that CUNY’s letter is “simply more of the same distinguishable rhetoric” found in CUNY’s motion to dismiss. *See* Letter dated July 31, 2025 (ECF No. 34). Plaintiff’s letter, which is filled with arguments regarding the pending motion to dismiss, is essentially an unauthorized sur-reply. Yet, the Court’s Individual Practices in Civil Cases explicitly state that “[s]ur-reply memoranda will not be accepted without prior permission of the Court.” Given that Plaintiff did not seek or receive any permission before making her unauthorized filing, CUNY respectfully requests that the Court decline to consider it. *See Old Republic Ins. Co. v. Hansa World Cargo Serv., Inc.*, 170 F.R.D. 361, 369-70 (S.D.N.Y. 1997) (“Because supplemental submissions are not authorized by the Federal Rules of Civil Procedure, the Local Rules of the Southern District of New York, or the Court’s Individual Rules, and because this Court did not grant [Plaintiff] permission to supplement its opposition papers,

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this Court will not consider [Plaintiff's] supplemental papers in resolving the instant motions" to dismiss).<sup>1</sup>

Thank you for your time and attention to this matter.

Respectfully submitted,

/s/ Shaina Schwartz  
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cc: All counsel of record (*via* ECF)

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<sup>1</sup> In any event, CUNY disputes Plaintiff's characterizations, and remains available, at the Court's direction, to explain how the supplemental authority, together with the rulings in *Gartenberg v. Cooper Union for the Advancement of Sci. & Art*, supports dismissal of Plaintiff's claims.